DEEDS—DELIVERY—ESTOPPEL.—Plaintiff, to save the expense incident upon the probate of a will, made a deed of land, including that in suit, to her husband. The deed was not delivered, but instead was placed away in a trunk. During plaintiff's absence from her home, her husband secured it without her knowledge and transferred the land in controversy, it coming to defendant through mesne conveyances in trust for the L Railroad Company. During six months after the company's possession improvements were made, all of which became known to plaintiff, ten days after such possession. She did nothing in disavowal of the company's title, until three years subsequent, when this action to quiet title was begun. *Held,* that plaintiff was estopped to deny defendant's title. *Baillarge* v. *Clark* (1904), — Cal. —, 79 Pac. Rep. 268.

The foregoing facts would strongly appeal to a court of equity, yet it is doubtful if a case for the application of the doctrine of estoppel by deed could arise where no delivery of the deed had been made. BIGELOW ON ESTOPPEL, page 349 (5th Ed.); *Nourse* v. *Nourse,* 116 Mass. 101. For a party cannot be relieved in equity, by reason of an estoppel, any more than at law, from the effects of a positive rule of law. *Nat'l Granite Bank* v. *Tyndale, Adm'r.,* 176 Mass. 547. And for more extreme facts than those of the principal case upon which a recovery was allowed and the application of estoppel denied, see *Smith* v. *Ingram,* 130 N. C. 100; 132 N. C. 959, although the court did not commit itself as to whether relief in equity would be granted.

DEEDS—FRAUDULENT CONVEYANCE—BONA FIDE PURCHASER FROM FRAUDULENT GRANTEE.—Appellant, defendant below, took a mortgage from B and C upon land granted them by their mother, such deed reciting a consideration of love and affection. Appellee was a judgment creditor of the mother at the time of her conveyance to B and C. Appellant's loan had been made in good faith to the grantee in possession, although with knowledge of the contents of the deed founded upon a good consideration, but in ignorance of appellee's judgment. In this action to subordinate appellant mortgagee's claim to that of the judgment creditor, *Held,* that a plea setting up the bona fides of the transaction was sufficient and a complete defense. *McKee* v. *West* (1904), — Ala. —, 37 So. Rep. 740.

The statement often appears, as in the principal case, that when the grantor at the time of making a voluntary conveyance is indebted, "the law stamps such conveyance as per se fraudulent as against his existing creditors." But this has been held true only when the grantor has not ample property left, after such disposition, to satisfy all the just claims of his creditors. *Nevers* v. *Hack et al.* 138 Ind. 260; *Kain* v. *Larkin,* 131 N. Y. 300. Yet this principle was overlooked in a subsequent New York decision, *Smith* v. *Reid,* 134 N. Y. 568, 575, when two of the justices dissented, citing *Kain* v. *Larkin, supra.* The present day doctrine that a bona fide purchaser for a valuable consideration from a fraudulent grantee acquires good title as against creditors of the first grantor is affirmed by the principal case. But earlier decisions held to the contrary. *Preston* v. *Crofut,* 1 Conn. 527; *Roberts*

v. *Anderson,* 3 Johns. 371. And in a contest between creditors of the grantor and his grantee to set aside a conveyance for inadequacy of consideration the Alabama court, opposed to the general rule, presumes such a deed fraudulent until its validity be established. *Hubbard et al.* v. *Allen,* 59 Ala. 283, 296. To the contrary, see, *Shea* v. *Hynes,* 89 Minn. 423. The doctrine of the principal case has been invoked in an action by a trustee in bankruptcy to recover property purchased bona fide from a preferred creditor, and such purchase has been held without the provision of the Bankruptcy Act of 1898. (Sec. 60 subd. 6.) *Hackney* v. *First Nat'l Bank,* 94 N. W. Rep. 805, affirmed 98 N. W. Rep. 412.

DOMICIL—ELECTION—RESIDENCE AND INTENTION.—Appellant received the highest number of votes cast for tax collector of San Francisco, and was declared duly elected. Respondent, the then incumbent, contested the appellant's right to the office, on the ground of ineligibility in this, that the appellant has not resided in San Francisco for five years next preceding such election as required by statute. Appellant and his wife formerly resided at, and were domiciled in San Jose. In August, 1894, they discontinued housekeeping in San Jose and he removed his wife to San Francisco to his father's home, but delayed his own going until February, 1895. Upon these facts and an alleged intention on the part of the appellant to change his domicil the court held that there was not such a concurrent intention and residence as would operate to effect a change of domicil. *Held,* no error. *Sheehan* v. *Scott* (1905), — Cal. —, 79 Pac. Rep. 350.

There is no doubt a marked distinction between the terms "residence" and "domicil"; residence having a more limited and local application than domicil. But although the distinction undoubtedly exists, the courts, in construing constitutional provisions and statutory enactments have quite generally, in America, held the statutory residence to mean domicil, and the words to be convertible terms. JACOBS, DOMICIL, § 75; *People* v. *Connell,* 28 Ill. App. 285. Under attachment statutes, however, residence is construed to mean actual rather than legal residence. *Burt* v. *Allen,* 48 W. Va. 154; *Long* v. *Ryan,* 30 Grattan, 718; *Stickney* v. *Chapman,* 115 Ga. 759. Domicil has been defined "In a strictly legal sense" to be that place "where one has his true fixed permanent house and principal establishment, and to which whenever he is absent he has the intention of returning." STORY, CONFLICT OF LAWS, § 41; approved in DICEY, CONFLICT OF LAWS, p. 729. A domicil once acquired is retained until it is changed. *Desmare* v. *U. S.,* 93 U. S. 605; *Viles* v. *City of Waltham,* 157 Mass. 542. Every independent person can acquire a domicil of choice by the combination of residence (factum), and intention of permanent or indefinite residence (animus manendi), but not otherwise. DICEY, CONFLICT OF LAWS, p. 104; *Udny* v. *Udny,* L. R. 1 H. L. Sc. 441; *Bell* v. *Kennedy,* L. R. 1 H. L. Sc. 307. And any restraint upon such person's choice would be an abridgment of his rights. *Tanner* v. *King,* 11 La. 175, 179. Domicil is largely a question of intention, but that alone will not control. *Talmadge, Admr.,* v. *Talmadge,* 66 Ala. 199; *Matzenbaugh* v. *People,* 194 Ill. 108; *Hascall* v. *Hafford,* 107